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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,107	03/30/2004	James Earl Barnett		2880

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James Earl Barnett
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EXAMINER

LANGDON, EVAN H

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3654

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/812,107	Applicant(s) BARNETT, JAMES EARL	
	Examiner EVAN H. LANGDON	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-8,10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,10 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4, 8 10 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 4, 8 and 10, it is unclear if the “centering member” or the “high point anchoring member” are the “means for establishing a high center point” of claim 3 or if they are additional structure? In addition, it is unclear if the “dual use member,” the “vertical direction transition member,” the “centering member,” or the “high point anchoring member” are the “means for providing minimal peripheral interferences” of claim 3 or if they are additional structure?

The term "very strong" in claims 12 and 14 is a relative term which renders the claim indefinite. The term "very" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In regard to claim 13, it is unclear what is meant by “in such a manner so as to increase structural integrity?”

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Koscinski, Jr. (US 5,445,487).

Koscinski discloses an apparatus that universally attaches to flanges which facilitates the transition of the location of a load (see Figure 1).

In regard to claim 2, Koscinski discloses component part that can be configured in a manner which may be employed in either horizontal or vertical applications (see Figure 6).

In regard to claim 3, Koscinski discloses a means 54 for establishing a high center point; a means providing minimal peripheral interference 14, 22, 26, 24, 54; a means for limiting weight; means for facilitating ease of transport (see Figures 1-3); and means 14, 12, 24 for bearing heavy loads.

In regard to claim 4, Koscinski discloses An apparatus which vertically transitions the location of a load in horizontal applications as recited in claim 3, comprising: (a) base 14; a dual use member 22 connected to the base; a vertical direction transition member 26 connected to the dual use member; a centering member 24 connected to the vertical direction transition member 26; a high point anchoring member (Fig. 3) connected to the centering member; a pulley 54 connected to the high point anchoring member; a winch 52 connected to the dual use member; a cable 58 connected to the winch which passes through the pulley attached to the high point anchoring member.

In regard to claim 8, Koscinski discloses the means for establishing a high center point in horizontal applications includes: a base 14 which includes a mounting pedestal 68 having drilled and threaded holes 72 into which a locking screw may be threaded; a dual use member 22 connected to the mounting pedestal which includes a drilled hole into which the locking screw may be inserted locking the dual use member to the mounting pedestal; a vertical direction transition member 26 connected to the dual use member, the vertical direction transition member which includes a drilled and threaded hole 30 into which a locking screw can be aligned with a drilled hole in the dual use member thereby locking the vertical direction transition member to the dual use member, and which includes a drilled hole through which a locking pin 34 may pass; a horizontal application centering member 24 connected to the vertical direction transition member 26 and having spaced drilled holes through which the locking pin 28 may pass; a high point anchoring member (Fig. 3) connected to the centering member having a drilled and threaded hole through which a locking screw may pass (Fig. 3); the horizontal application centering member 24 having a drilled hole situated in such manner so as to align with the locking screw which passes through the drilled and threaded hole in the high point anchoring member (Fig. 6).

In regard to claim 10, Koscinski discloses means for providing minimal peripheral interference in horizontal applications, includes base 14; a dual use member 22 connected to the base; a vertical direction transition member 26 connected to the dual use member; a centering member 24 connected into the vertical direction transition member; and a high point anchoring member connected to the centering member (Fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koscinski.

Koscinski discloses means for attaching flanges to facilitate transition of a load including a base 68, the base 68 including extending members 70 which included drilled holes 72 and bolts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bolts of Koscinski to include tapered heads and tapered nuts because the substitution of a known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

With respect to claims 12 and 13, Koscinski does not disclose specific means for limiting weight. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to manufacture the apparatus out of lightweight but strong material with the least number of parts with strategic placement.

Art Unit: 3654

In regard to claim 14, Koscinski teaches means for bearing heavy loads in horizontal applications includes: connecting of a vertical support cable 58 between the base 68 and the vertical direction transition member 26; the affixing of a horizontal support cable between the vertical directional transition member and the high point anchoring member; a hinged variable cam (Fig. 6) mounted to the vertical directional transition member through which the horizontal support cable passes; a locking mechanism 34 connected to the vertical directional transition member which locks the hinged variable cam into place when the apparatus is deployed in horizontal applications, a winch 52 anchoring mount which includes a drilled and threaded hole into which a locking screw can be threaded as well as drilled and threaded holes used to connect a winch connected to the vertical support member which includes a drilled hole into which the locking screw may pass; a winch connected to the winch anchoring mount which includes a cable; the cable which passes through a pulley connected to the high point anchoring member (see Figures 1 and 6).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koscinski in view of Vetesnik (US 6,554,254).

Vetesnik teaches means for attaching flanges to facilitate transition of a load including a base 10 have extending members 14, 15, 22, 23 having slotted grooves 22B, 23B, centering holes 16 and the base includes cavities 22B through which the extending members may pass, and holes 25 through which the extending members locking bolts 24 may be screwed, guide bolts 13A, and mounting bolts 16.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Koscinski to include a base having extending members as suggested by Vetesnik, to use the device in various settings.

Response to Arguments

In response to applicant's argument that Vetesnik fails fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., flanges moveable in multiple direction (page 3 of the response)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response the applicant's argument that Koscinski does not anticipate the claimed invention because the claimed invention is for use in emergency situations is nearly an intended use of the claim invention. There is no limitation claimed to this use or any limitation that is not clearly anticipated by Koscinski.

In response the applicant's argument that the invention claims "universal" flanges, there is no structure claimed to describe this use. It is noted that the features upon which applicant relies (i.e., means which allow of the apparatus to be fitted to any flange on any vessel nozzle (page 4 of the response)) are not recited in the rejected claim(s).

Further, Applicant has not addressed all the 35 U.S.C. 112, second paragraph rejections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVAN H. LANGDON whose telephone number is (571)272-6948. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Evan H Langdon
Primary Examiner
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